

REMARKS

Claims 10 and 15-22 are pending in this application.

Claims 1, 5 and 5 have been canceled without prejudice or disclaimer, for simplicity and narrowing issues in this application and not related to any art. Claim 1 having been canceled, Claim 15 has been amended as to dependency.

Claim 10 has been rewritten in independent form. As to the recitation of “theater,” see, e.g., Applicants’ specification at page 1, first paragraph. As to the recitation at line 8 regarding “voting,” see, e.g., Applicants’ specification at page 9, line 3+.

It is respectfully submitted that the amendments are suitable for entry and consideration after-final. The claim scope is not expanded. The issues are narrowed and focused for appeal, if an appeal should be necessary.

At page 2 of the Office Action, Claims 1, 10, 15-17 and 21-22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Narang (US 2001/0025296 A1) in view of Sherman et al. (US 2002/0051119 A1).

Applicants respectfully traverse the obviousness rejection.

Applicants’ only independent claim, claim 10, recites an inventive “Internet e-audition for a musical theater show, comprising: on an Internet site, posting written sheet music, words included, for the musical theater show; receiving audio-recorded e-audition versions by singers of the sheet music, and posting on the Internet site at least two audio-recorded e-audition songs; and voting by site visitors on posted e-audition songs.” (Applicants’ claim 10.)

Narang is not particularly relevant to Applicant’s claim 10. Applicant’s claimed invention recites written sheet music that is ready to sing. Narang’s only teachings are about the time before music is written. In Narang, a musical score is one example of something being written as a team project. Narang discloses nothing about the time after music is written—nothing about getting music performed, recorded, or disseminated.

Also, Narang fails to disclose anything about musical theater. Narang fails to teach any sort of “audition” for a musical theater show.

Narang is directed to creation of works over a computer network, and he mentions that “the present invention can be used to develop artistic works, such as screenplays, plays, musical scores, and books.” [0007] Narang teaches a group,

working via a computer network, collaborating on a screenplay, play, musical score or book. Narang fails to teach or disclose performance of a musical score (by one or more singers or otherwise), or anything to be done with a created musical score. As the Examiner admits, Narang fails to teach posting of audio-recorded songs on the website.

Also, Narang fails to teach or disclose website visitor voting on performances or productions. In Narang, the only scoring is of contributing writers of the work-in-progress, not any scoring of non-writers as in the voting on singers as in Applicant's claimed invention.

The Examiner is artificially twisting Narang in a direction that a person of ordinary skill in the art would not see. Narang is about team collaboration for writing something over a computer network. Getting something written, whether a book or a musical score or a screenplay, is a large undertaking and implicates many issues of tracking and evaluating individuals' contributions and obtaining consensus on the product. Narang is very substantially different from Applicants' claimed invention.

The Examiner's resort to Sherman is completely artificial. There is no point of commonality or combinability for Narang and Sherman. It is only because the Examiner has the benefit of Applicant's claims that the Examiner identifies Narang as lacking teaching about an audio recording. Without Applicant's claim in front of him, a person of ordinary skill in the art reading Narang would have completely no reason to give any thought at all to audio recording.

A person of ordinary skill in the art would not read Narang and Sherman as the Examiner proposes. To such a person, those two references are separate. Sherman is directed to a video karaoke system and is based on substituting a user's voice for a film actor's voice in a film clip. Sherman discloses that the user may compare the waveform and spectral analysis of his voice against that of the original professional actor's voice [0021], to compare his timing, inflection and volume, such as an aspiring actor or a person learning a foreign language may want to do [0021, 0025], or as wanted in speech therapy. [0021, 0026] Narang does not concern voice. A person of ordinary skill in Applicants' art would see Sherman as teaching voice- or language-improvement using a video karaoke system and Narang as teaching team-writing over a computer network. Nothing about either reference

would call to such a person to modify Narang based on Sherman. Objectively speaking, these two references are not reasonably combinable.

Moreover, even if the two references are combined, elements of Applicants' presently claimed invention still are missing. Neither Narang nor Sherman discloses any sort of singing audition, for a musical theater show or otherwise. Narang and Sherman both fail to teach or disclose receiving recorded versions by a singer of the sheet music as recited in Applicants' claim. Neither Narang nor Sherman teaches getting written sheet music sung and recorded by different vocalists. Rather Narang is directed only to getting a book or musical score written, and Sherman is only directed to a user's own vocal self-improvement. Neither Narang nor Sherman disclose voting by website visitors on posted audio recordings. Even considering both Narang and Sherman, still much of Applicants' presently claimed invention is missing.

The Examiner at page 3 of the Office Action states his assumption that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Narang to include that posted artistic works include audio-recorded songs, with the Examiner's reasoning being that "it would advantageously increase the application field of the Narang's invention, thereby increase revenue." The Examiner's assumption is incorrect. A person of ordinary skill in the art would not modify Narang in the direction of audio-recordings. For a writer to provide co-collaborators an audio-recorded version of a vocal music score introduces complexities on several levels. First, a composer of vocal music and the vocalist to sing that music are generally separate individuals. A composer of musical theater music usually does not have the quality of voice that is wanted, or the range. Usually a singer who is not the composer would be needed for performing the music. Second, on the recording point, the Examiner's assumption overlooks the need for equipment for audio recording and for conversion to computer-readable files. The Examiner's assumption that a writer working on a Narang-style collaboration would modify Narang to post an audio-recording to the collaboration website is flawed, for adding cost, involving an additional person, requiring audio-recording and conversion equipment and taking too much time—not what a person of ordinary skill in the art would take on. Sherman fails to provide motivation for a person of ordinary skill in the art to go through all the work, time and expense that would be

involved to do what the Examiner is suggesting he'd do. Sherman only teaches such a person about a voice-improvement video karaoke system, and how the Examiner proposes to use Sherman is not how a person of ordinary skill in the art would have been thinking.

Additionally, it is noted at page 4 of the Office Action that the Examiner treats the recitation of "at least two audio-recorded e-audition songs" as lacking patentable weight for being what the Examiner characterizes as "non-functional language." The Examiner's characterization is incorrect. The posted two e-audition audio recordings are claim elements. Whether a website contains two audio-recorded e-audition songs or not can be actually ascertained. The Examiner is without legal basis for disregarding this claim language.

Also, it is noted that at page 7 of the Office Action, the Examiner indicates having disregarded the phrase "by a singer" and without patentable weight for being, according to the Examiner, non-functional. Applicants respectfully disagree. The phrase "by a singer" distinguishes the claimed recording from a computer-generated recording made using stored sounds but without an actual singer singing the sheet music. The recordings by the different methods, computer-generated versus by a live singer singing a song, are not identical. An audio recording "by a singer" contrasted to a machine-generated version would provide a different audio quality. The underlying computer data file from a singer recording a song would have more variety and personalized quality than a machine-generated version. It will be appreciated that there are many points of comparison for respective audio data files.

For simplicity and brevity, remarks for the dependent claims are not separately made at this time.

Thus, for the reasons set forth above, Applicants' presently claimed invention is substantially different from Narang, nor does Sherman bring a person of ordinary skill in the art to modify Narang to arrive at Applicants' invention. Reconsideration and withdrawal of the obviousness rejection are respectfully requested.

At page 5 of the Office Action, Claim 5 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Narang in view of Sherman and further in view of Miles. Claim 5 having been canceled, without prejudice, no response is believed needed at this time.

At page 6 of the Office Action, Claim 20 has been rejected under 35 U.S.C. 103(a)

as being unpatentable over Narang in view of Sherman and further in view of Ghani.

Applicants respectfully traverse this obviousness rejection as to dependent claim 20. Claim 20 is directed to the embodiment where the name or handle that the e-audition singer uses for herself appears on the screen identifying the singer's e-audition recording. That is, the posted e-audition recordings are attributed rather than anonymous or merely referenced-numbered.

The reasons for non-obviousness set forth above with regard to independent claim 10 are incorporated by reference herein. Ghani does not supply what is missing from Narang and Sherman. Ghani teaches comment text boxes, question and answer text boxes, and the like, to mimic a traditional classroom in an Internet forum. Ghani does not teach at least two audio vocal recordings posted on a website, with voting on the posted audio recordings. Nor do Narang or Sherman contain such a teaching. Even with Narang, Sherman, and Ghani, elements of Applicants' claimed invention still are missing.

Wherefore, reconsideration and withdrawal of the obviousness rejection of claim 20 are respectfully requested.

In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 10 and 15-22 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephone or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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